

ORDINANCE NO.: 5619

**ORDINANCE TO AMEND TITLE 5, CHAPTER 5-20 OF THE
MEMPHIS MUNICIPAL CODE TO MODIFY THE USE OF THE
EXISTING HOTEL/MOTEL OCCUPANCY TAX FOR THE PERIOD FROM
DECEMBER 1, 2015 TO JUNE 30, 2016**

WHEREAS, in accordance with applicable state law, Ordinance No. 4824 was previously adopted by the Council of the City of Memphis for the express purpose of establishing a hotel/motel occupancy tax for the City of Memphis; and

WHEREAS, pursuant to Ordinance No. 4824, the City imposed a hotel/motel occupancy tax in the amount of one and seven-tenths percent (1.7%) of the consideration charged by the operator against each transient occupying a hotel room within the municipal limits of Memphis; and

WHEREAS, on May 21, 2002, Ordinance No. 4824 was amended by adoption of Ordinance No. 4939 which specified the distribution of all proceeds of the City's hotel/motel occupancy tax and eliminated the sunset provision included in Ordinance No. 4824; and

WHEREAS, pursuant to Section 67-4-1402 of the Tennessee Code Annotated, the City of Memphis is authorized to impose a hotel/motel occupancy tax in an amount up to five percent (5%) of the consideration charged by each hotel operator; and

WHEREAS, on September 1, 2015, effective December 1, 2016 by its terms, Ordinance No. 4824 as amended by Ordinance No. 4939 was further amended by Ordinance No. 5596 to increase the existing hotel/motel tax by one and eight-tenths percent (1.8%) to a total of three and one-half percent (3.5%) and to provide for the application of the hotel/motel tax as a result of such increase.

WHEREAS, the Council has been advised that the Cook Convention Center requires a new roof and related renovations and repairs for its continued use and believes the use and application of the proceeds of the additional 1.8% tax to the existing hotel/motel tax for the period from December 1, 2015 to June 30, 2016 should be amended to permit such use without the requirement to incur additional bonded indebtedness for such purpose; and

WHEREAS, until June 30, 2016 the existing hotel/motel revenues are the province of the City in accordance with the Amended and Restated Interlocal Agreement Relating To the Financing of the Proposed Sports and Basketball Arena to be Financed By The Memphis and Shelby County Sports Authority, Inc., dated May 15, 2002, as heretofore amended and supplemented (the "Interlocal Agreement"), and as such the enactment of this amending ordinance as aforesaid would not violate the restrictions on amendment under such Agreement or require an amendment; and

WHEREAS, due to the immediate necessity for a new roof for the Cook Convention Center, the Council has enacted this amendment without taking the time required to amend the Interlocal Agreement Related to the Financing of the Proposed Sports and Basketball Arena to be Financed

By The Memphis and Shelby County Sports Authority, Inc., dated May 15, 2002, by and among Shelby, County, Tennessee, the City and The Memphis and Shelby County Sports Authority, Inc., as heretofore amended and supplemented, to permit the use of proceeds of the additional 1.8% tax for direct payment of the costs of construction or renovation to convention and meeting facilities on and after July 1, 2016, but wishes to provide for such direct use in conformity with said Interlocal Agreement, if and when said Interlocal Agreement is amended to so provide.

NOW THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Part 1, Section 2 of Ordinance No. 4824 codified as Section 5-20-2 of the Memphis Municipal Code is hereby amended to read as follows:

The City levies a privilege tax upon the privilege of occupancy in a hotel of each transient. Except as provided below, such tax shall be in the amount of three and one-half percent (3.5%) of the consideration charged by the operator for such occupancy. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this chapter.

Notwithstanding the foregoing, the City levies a privilege tax upon the privilege of occupancy in a hotel of each transient in a hotel which is in a Tourism Development Zone and subject to the maximum privilege tax. Such tax shall be in the amount of one and seven-tenths percent (1.7%) of the consideration charged by the operator for such occupancy. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this chapter.

SECTION 2. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Part I, Section 9 of Ordinance No. 4824 as amended and codified as Section 5-20-9 is hereby amended to read as follows:

(a) Through and until June 30, 2016, the first 1.7% tax of taxes levied under this chapter shall be collected by the City and distributed as follows:

1. The revenue from such tax shall first be applied to payment of bonded indebtedness, principal and interest including expenses of the bond sale or sales to fund the construction or renovation of the Cook Convention Center up to the principal amount of Thirteen Million Dollars (\$13,000,000), provided however that in the event that revenues from the Memphis Tourism Development Zone (TDZ) or another City of Memphis revenue source is substituted for the taxes hereunder for payment of the said outstanding bonded indebtedness, then the Hotel/Motel tax amounts designated herein will thereafter be used to fund the New Memphis Arena project or such other projects and purposes as the City Council shall determine.

2. Notwithstanding any of the provisions contained herein to the contrary, any revenues produced from the first 1.7% tax of taxes levied under this chapter over and above that amount which is required for each year's debt service on the outstanding bonded indebtedness incurred by the City for the construction or renovation of the Cook Convention Center, shall be used to provide operating revenue first, for the Wonders International Cultural Series, or its successor organization, in the amount of Four Hundred Thousand Dollars (\$400,000) for the City's fiscal year 2001 and Five Hundred Thousand Dollars (\$500,000) for fiscal years 2002 and 2003, and second for the Coliseum in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) for the City's fiscal years 2002 and 2003.

3. If there are excess revenues remaining after each year's debt service on the outstanding bonded indebtedness incurred by the City for construction or renovation of the Cook Convention Center and after operating funding has been provided for the Wonder's International Cultural Series, or its successor organization, and The Coliseum, as provided in subsections (a)(1) and (2) of this section, then such excess will be provided to the Memphis Convention and Visitor's Bureau for additional marketing, advertising and promotion of the Memphis and Shelby County hospitality industry.

(b) From July 1, 2016 and thereafter, the first 1.7% tax of the taxes levied under this chapter shall be collected by the City and applied to payment of bonded indebtedness, principal and interest, of the bond sale or sales by the Memphis and Shelby County Sports Authority (the "Sports Authority Bonds") for the purpose of development and construction costs of a new Memphis Sports Arena, built by the New Memphis Arena Public Building Authority, to fund the construction of the NBA arena, until paid in full, and thereafter to such other projects and purposes as the City Council shall determine.

(c) Upon the effective date of this ordinance, the additional 1.8% tax of the 3.5% tax levied hereunder shall be used for the purpose of funding the following:

1. To make up any deficiencies in the payment of administrative expenses of the Memphis and Shelby County Sports Authority, payments to the Bond Fund, Rebate Fund, or Debt Service Reserve Fund for the Sports Authority Bonds;

2. To reimburse, on a pro rata basis, monies paid by Shelby County or the City of Memphis to replenish the Debt Service Reserve Fund for the Sports Authority Bonds; and

3. For deposit to the Capital Improvement Reserve Fund to make capital improvements, administrative costs, to purchase or redeem the Sports Authority Bonds, as directed by the Memphis and Shelby County Sports Authority.

(d) Notwithstanding any of the provisions contained herein to the contrary, any revenues produced from the taxes levied under this chapter over and above the sum of (i) that amount which satisfies subsections (c)1, (c)2, and (c)3 of this section, and (ii) the greater of: (x) the amount of such tax revenue projected for the current fiscal year at the time of the original issuance of the Sports Facility Bonds and (y) the amount the 1.7% tax rate would have provided for such fiscal year, shall be applied to the payment of principal of and interest on additional bonded indebtedness, and non-capitalized expenses of the bond sale or sales and bond-related continuing costs, to fund additional construction or renovation of convention or meeting facilities; provided, however, that from December 1, 2015 through and including June 30, 2016, the City may also apply the revenues received from the additional 1.8% tax of the 3.5% tax levied under this chapter directly to pay the costs of additional construction or renovation of convention or meeting facilities; provided, further, that if and when Paragraph 7 of the Amended and Restated Interlocal Agreement Relating To the Financing of the Proposed Sports and Basketball Arena to be Financed By The Memphis and Shelby County Sports Authority, Inc., dated May 15, 2002, as heretofore amended and supplemented, is further amended to provide additionally for direct payments for additional construction or renovation of convention or meeting facilities on and after July 1, 2016, which amendment is hereby authorized, that provision shall be incorporated herein.

SECTION 3. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 4. BE IT FURTHER ORDAINED, that all parts of Ordinance Nos. 4824 and 4939 and 5596, except as amended herein, shall remain in full force and effect.

SECTION 5. BE IT FURTHER ORDAINED, that this Ordinance shall take effect from and after the date it shall have been passed by the City Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

THE FOREGOING ORDINANCE

_____ PASSED

1st Reading _____

2nd Reading _____

3rd Reading _____

Approved _____
Chairman of Council

Date Signed: _____

THE FOREGOING ORDINANCE

5619 PASSED

1st Reading 5-17-2016

2nd Reading 6-07-2016

3rd Reading 6-21-2016

Approved _____
Chairman of Council

Date Signed: 5 July 2016

Approved: [Signature]
Mayor, City of Memphis

Date Signed: 7/6/16

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie C. Snipes
Comptroller